IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 29 of 2000

with

APPEAL FROM ORDER Nos. 56 to 69 and 103 all of 2000

with

CIVIL APPLICATION No. 316/2000 and 1240 to 1247 and 1250 to 1255 and 1880 of 2000.

(in all 16 matters)

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAJMAL AMBALAL JAIN

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MR JITENDRA MALKAN for Petitioner No. 1

MR M.K.PUROHIT for MR.PRASHANT G DESAI for Respd No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 10/09/2001

ORAL COMMON JUDGEMENT

1. All these Appeals are disposed of by this common Judgment as common question of law is involved in all these matters.

2. The Appellants have filed different suits before the trial Court against the Notice issued u/s.68 Rule : 33 of the Gujarat Town Planning Act by the respondent - Corporation. Earlier ex-parte interim relief was granted in their favour, but after hearing the other side the learned Judge rejected their Notice of Motion and vacated the ad.interim relief granted earlier in their favour. Aggrieved by the impugned order all these Appeals have been filed wherein notice was ordered to be issued to the other side. Notice was also ordered to be issued on Civil Application without any interim relief.

3. It was stated at the bar by learned Counsel Mr.Malkan appearing for the appellants in all these cases, on the instruction received from his clients, that though there is no interim order passed in any of these matters, the respondent Corporation has not taken possession of their shops in question. Not only that, the other shop owners who have not approached the Civil Court, their shops are also not touched. Learned Counsel Shri Mrugen Purohit for Shri Prashant G. Desai for the respondent Corporation initially asked for time in these matters on the ground that Mr.Desai had some personal difficulty. However, when the court asked to make definite statement in the matter, he stated, on the instruction received from Mr.B.M.Makwana, Sub-Inspector in Estate Department of the respondent Corporation, that though there was no interim order passed in favour of the appellants they have not proceeded against any of the appellants so far because of the pendency of these Appeals. In that view of the matter I am of the considered opinion that no further adjournment is required as according to me the ends of justice would be served by directing the trial Court to decide all the Civil Suits as early as possible, preferably by 30.4.2002. Till then the present appellants, whose possession is not disturbed so far, their possession shall not be disturbed.

4. Accordingly all these Appeals are disposed of by directing the trial Court to decide all the Suits as early as possible, preferably by 30.4.2002. Till then the respondent Corporation shall not disturb their

possession.

In view of the order passed in Appeal from Order all the Civil Applications are disposed of.

sd/-

Date : September 10, 2001 (B. J. SHETHNA, J.)

sas